(6)

No. 01-339-CFH

CAPITAL CASE

Docketed:
August 27, 2001

Title: Terry L. Stewart, Director, Arizona Department of Corrections, Petitioner
v.
Robert Douglas Smith

Court: United States Court of Appeals for the Ninth Circuit

Entry	Date	Proceedings and Orders
	Aug 13 2001	Petition for writ of certiorari filed. (Response due September 26, 2001)
	Sep 26 2001	Brief of respondent Robert Douglas Smith in opposition filed.
	Sep 26 2001	Motion of respondent for leave to proceed in forma pauperis filed.
	Sep 26 2001	Motion of Criminal Justice Legal Foundation for leave to file a brief as amicus curiae filed.
	Oct 10 2001	DISTRIBUTED for Conference of October 26, 2001
	Oct 10 2001	Reply brief of petitioner Terry L. Stewart filed.
	Oct 24 2001	Record requested.
	Nov 9 2001	Record filed.
	Nov 14 2001	REDISTRIBUTED for Conference of November 30, 2001
	Nov 21 2001	Record filed.
	Dec 3 2001	REDISTRIBUTED for Conference of December 7, 2001
	Dec 12 2001	Motion of respondent for leave to proceed in forma pauperis GRANTED.
	Dec 12 2001	Motion of Criminal Justice Legal Foundation for leave to file a brief as amicus curiae GRANTED.
	Dec 12 2001	Petition GRANTED. Question certified to the Supreme Court of Arizona. Judgment and further proceedings reserved pending receipt of response from the Supreme Court of Arizona. Opinion per curiam. (Detached opinion.)
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	Dec 12 2001	The following certified question to the Supreme Court of Arizona: At the time of respondent's third Rule 32 petition in 1995, did the question whether an asserted claim was of "sufficient constitutional magnitude" to require a knowing, voluntary and intelligent waiver for purposes of Rule 32.2(a)(3), see Ariz. Rule Crim. Proc. 32.2(a)(3), comment (West 2000), depend upon the merits of the particular claim, see State v. French, 198 Ariz. App. 119, 121-122, 7 P. 3d 128, 130-131 (2000); State v. Curtis, 185 Ariz. App. 112, 115, 912 P. 2d 1341, 1344 (1995), or merely upon the particular right alleged to have been violated, see State v. Espinosa, 200 Ariz. App. 503, 505 29 P. 3d 278, 280 (2001)?
	Dec 12 2001	CERTIFIED QUESTION ISSUED to Supreme Court of Arizona with complete records from United States Court of Appeals for the Ninth Circuit and from the United States District Court for the District of Arizona. (1-envelope and 6-boxes). Also copies of certified copy mailed to the USCA for the Ninth Circuit, USDC for the District of Arizona and all counsel of record in this case.

JEP